IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

MACA.No. 151 of 2004

OPMV.461/1999 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KALPETTA
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APPELLANT/PETITIONER

MOIDEEN KUTTY,
S/O..UNNEENKUTTY, PARAMBAN HOUSE,
CHOORALMALA, VELLARMALA POST,
MEPPADI.

BY ADV. SRI.RONY J.PALLATH

RESPONDENTS: RESPONDENTS
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1. AHAMED KAYA, S/O.MAMUKKOYA,
POTTAMMEL HOUSE, 11TH MILE, KUNNAMANGALAM POST,
KOZHIKODE DISTRICT (DVR OF KL 11/B.7315 LORRY
D.L.NO.NOT KNOWN)

2. N.K.HARIS, MAVULLAKANDIYIL HOUSE,
ARAMBRAM, PADNILAM POST, KOZHIKODE DISTRICT.
(R.C.OWNDER OF KL 11/B 7315 LORRY.)

3. THE KERALA STATE INSURANCE DEPARTMENT
DISTRICT INSURANCE OFFICE, PUTHIYARA,
KOZHIKODE-4 (INSURER OF KL.11/B.7315)
POLICY NO.1338/1062/98 KKD.)

BY GOVERNMENT PLEADER SRI.SANDESH RAJ

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 25/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.S.RADHAKRISHNAN & A.K.BASHEER, JJ.

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M.A.C.A.No.151 OF 2004

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Dated this the 25th day of September, 2007

JUDGMENT

Radhakrishnan, J

Appellant is the petitioner/claimant in O.P.(MV)461/99 on the file of the MACT, Wayanad. Petitioner a fish merchant was aged 33 years at the time of the accident. On 12.6.99, while he was travelling as a pillion rider in bike No.KL-12/A 1127, lorry bearing No.KL11/E 7315 driven by the first respondent in a rash and negligent manners and at over speed hit against the bike resulting in serious injuries to him. Petitioner claimed Rs.2,00,000/- as compensation. Tribunal awarded an amount of Rs.46,850/- as compensation. Counsel appearing for the appellant submitted that the amount awarded is on the lower side. Petitioner claimed Rs.1,15,000/- for permanent disability, for loss of earning and for inconvenience caused to him but Tribunal awarded Rs.15,000/-. Ext.A7 is the disability certificate which would indicate that he had sustained 25% disability.

Due to the two fractures sustained to the petitioner on his right tibia and fibula, it is quite natural that he be permanently disabled to some extent. It will also adversly affect his earning capacity and amenities of life. Considering all these aspects, we are inclined to grant him an additional amount of Rs.30,000/- more on that head. For loss of earning an additional amount of Rs.5,000/- is granted. Considering the nature of the injuries sustained by the petitioner an additional amount of Rs.7,000/- is granted. In total Rs.42,000/- is granted as additional compensation over and above the amount already awarded with interest at the rate of 7.5% from the date of application till payment. The award will stand in all other respects.

Appeal is disposed of as above.

K.S.RADHAKRISHNAN, JUDGE

A.K.BASHEER, JUDGE

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